IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 95 of 2004

with

CIVIL APPLICATION No 5468 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AHMEDABAD MUNICIPAL TRANSPORT SERVICE

Versus

HINDURAM DALARAM

Appearance:

1. Special Civil Application No. 95 of 2004

MR HS MUNSHAW for Petitioner No. 1

MR VM DHOTRE for Respondent No. 1

MR VB GHARANIYA for Respondent No. 1,2-4,5/1-10

UNSERVED-EXPIRED (R) for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 10/12/2004

ORAL JUDGEMENT

Civil Application No.5468 of 2004 has been filed by eight respondents in the main petition, who are workmen of the petitioner Corporation for vacating the interim relief and also for stay of the reversion order dated 17.5.04.

2. Though the main petition was placed for hearing of interim relief, it was jointly requested for being taken up for final disposal.

3. Special Civil Application No.95 of 2004 has been filed by the Ahmedabad Municipal Transport Service challenging the award dated 2nd November 2002 by which the complaint applications filed by the concerned workmen were allowed and the orders of reversion of the workmen concerned from the post of Group Supervisor to that of Driver were set aside and it was directed that those of the workmen who have not yet retired should be given promotion to the post of Group Supervisor with effect from 26.5.2001.

4. It is jointly stated by the counsel appearing for the parties that during the pendency of the litigation before the Industrial Tribunal and thereafter before this Court, most of the workmen concerned had retired on reaching the age of superannuation. It is further stated that presently except one Shri Abdul Aziz Shaikh, respondent No.8 in the petition, all other workmen have retired. It is further stated that the said respondent No.8 also would retire with effect from 31st March, 2005. It is therefore stated that the main issue involved in the present petition has substantially become infructuous qua all other retired employees and with respect to respondent No.8 also the problem would not survive beyond 31st March, 2005.

5. Counsel for the petitioner has submitted that the work of Group Supervisor no longer exists and it would therefore not possible to accommodate respondent No.8 on the said post and that therefore reversion order should not be stayed. It is stated on behalf of respondent No.8 that respondent No.8 may not be compelled to do the work of the driver at the fag end of his career. He, therefore, submits that respondent No.8 has already applied for being granted leave and would also apply for further leave till the date of his retirement. Learned advocate for the petitioner assures this Court that the application will be considered in accordance with rules and leave be sanctioned as leave available or leave

without pay if there is no leave to his credit, as expeditiously as possible.

6. In view of the above statements and observations, counsel for the parties agree that the petition has become infructuous. The legality of the impugned award is no longer necessary to be examined and the petition is therefore disposed of as having become infructuous. Rule is discharged.

The Civil Application is disposed of in view of the order passed in the main petition.

(Akil Kureshi, J.)
(vjn)